

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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97150

FILE: B-183915

DATE: June 25, 1975

MATTER OF: Defense Mapping Agency

DIGEST:

Where Government has received and retained benefit of repair parts ordered by its employee who lacked authority to do so, contractor, having acted in good faith, may be paid on quantum valebant basis in accordance with agency recommendation.

This decision to the Accounting and Finance Officer, Defense Mapping Agency, is in response to a request for a decision pursuant to 31 U.S.C. 74 as to the legality of payment for items to be used with survey equipment of the Defense Mapping School. These items were ordered during the period of October 23 through November 11, 1974, without an authorizing purchase order from Surveying and Engineering Supply Company, in a total amount of \$6,599.01.

The Defense Mapping Agency has indicated that there was an immediate requirement for the items ordered which the noncommissioned officer who placed the orders perceived as sufficiently urgent to justify proceeding informally. In addition, the officer believed that he had received permission to purchase the items because the items were to be purchased on a "sole source" basis and purchasing orders, he believed, were forthcoming. Although no purchase orders were in fact forthcoming, it is reported that an authorized procurement was in the process of being finalized.

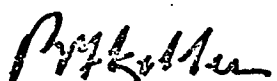
This situation was discovered during an internal audit and all outstanding orders with the vendor were cancelled. It is reported that internal controls have been established to prevent a recurrence of such unauthorized procurement actions. All items received have been distributed to various divisions where they have been or are in the process of being used for repairs. The accounting and finance officer has recommended that full payment be made.

Although the United States cannot be bound beyond the actual authority conferred upon its agents by statute or regulation, see United States v. Crance, 341 F. 2d 161, 166 (1965), the courts and our Office have recognized that in appropriate circumstances payment

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may be made for services rendered on a quantum meruit basis (the reasonable value of work or labor), or for goods furnished on a quantum valebant basis (the reasonable value of goods sold and delivered). 40 Comp. Gen. 447, 451 (1961). Before a right to payment under such basis may be recognized, it must be shown that the Government has received a benefit, and that the unauthorized action has been expressly or implicitly ratified by authorized contracting officials of the Government. B-181038, May 16, 1974; B-166439, May 2, 1969.

Since it appears that the amount involved here has been determined to be reasonable and the Government has received the benefit and use of the goods received, payment of \$6,599.01 for the goods had and received may be approved as administratively recommended.


Deputy Comptroller General
of the United States